

Message Text

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PAGE 01 STATE 161351
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FM SECSTATE WASHDC
TO AMEMBASSY MANILA

UNCLAS STATE 161351

E.O. 11652: N/A

TAGS: EIND, EINV, RP

SUBJECT: U.S. TRADEMARK PRACTICE

REF: MANILA 8553

1. U.S. LAW DOES NOT REQUIRE THAT A PHILIPPINE NATIONAL WITH RIGHTS RESPECTING A TRADEMARK REGISTERED UNDER THE FEDERAL TRADEMARK ACT QUALIFY TO DO BUSINESS IN THE UNITED STATES AS A CONDITION FOR BRINGING SUIT TO PROTECT RIGHTS ARISING UNDER THE TRADEMARK ACT. HENCE, EMBASSY MAY PROVIDE LETTER (OR OTHER FORM OF CERTIFICATION REQUIRED TO MEET PHILIPPINE REQUIREMENT), ALONG THE FOLLOWING LINES.

2. "UNDER APPLICABLE PROVISIONS OF U.S. FEDERAL LAW, PHILIPPINE NATIONALS MAY EXERCISE THE SAME RIGHTS WITH RESPECT TO THE PROTECTION OF TRADEMARKS REGISTERED IN THE UNITED STATES IN WHICH THEY HAVE AN INTEREST AS MAY BE EXERCISED BY U.S. NATIONALS."

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PAGE 02 STATE 161351

3. "TITLE 15 UNITED STATES CODE SECTION 1121 CONFERS ORIGINAL JURISDICTION UPON THE DISTRICT COURTS OF THE UNITED STATES TO HEAR ALL CASES ARISING UNDER THE TRADEMARK ACT, WITHOUT REGARD TO THE AMOUNT IN CONTROVERSEY AND WITHOUT REGARD TO THE DIVERSITY OR LACK OF DIVERSITY OF THE CITIZENSHIP OF THE PARTIES. THE FEDERAL DISTRICT COURTS WOULD THEREFORE HAVE JURISDICTION TO HEAR A SUIT

ARISING UNDER THE TRADEMARK ACT BROUGHT BY A PHILIPPINE NATIONAL.

4. AS RIGHTS ARISING UNDER THE TRADEMARK ACT ARE FEDERAL RIGHTS, A PHILLIPPINE NATIONAL WOULD NOT HAVE TO MEET ANY STATE LAW REQUIREMENTS FOR QUALIFICATION TO DO BUSINESS AS A CONDITION FOR BRINGING SUIT UNDER THE ACT. HOWEVER, UNDER TITLE 15 UNITED STATES CODE 1051, ANY PERSON NOT DOMICILED IN THE UNITED STATES MUST DESIGNATE A PERSON RESIDENT IN THE UNITED STATES ON WHOM NOTICES OR PROCESSES IN PROCEEDINGS AFFECTING THE MARK MAY BE SERVED. SUCH DESIGNATION MUST ACCOMPANY THE APPLICATION FOR TRADEMARK REGISTRATION. VANCE

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